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10 Attorneys for Plaintiffs and Counter-Defendants
11 THE LARYNGEAL MASK COMPANY LTD.
12 and LMA NORTH AMERICA, INC.

12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

15 THE LARYNGEAL MASK COMPANY
16 LTD. and LMA NORTH AMERICA, INC.,

17 Plaintiffs,

17 v.

18 AMBU A/S, AMBU INC., and AMBU
19 LTD.,

20 Defendants.

23 AMBU A/S, AMBU INC., and AMBU LTD.,

24 Counterclaimants,

25 v.

26 THE LARYNGEAL MASK COMPANY
27 LTD. and LMA NORTH AMERICA, INC.,

28 Counter-Defendants.

Civil Action No. 07 CV 1988 DMS (NLS)

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION TO EXCLUDE THE
EXPERT TESTIMONY OF NIKOLAUS
GRAVENSTEIN, SAMSUN
LAMPOTANG, MICHAEL MAZIS,
RYAN SULLIVAN, AND J. MICHAEL
THESZ FOR THE SPOILIATION OF
INFORMATION CONSIDERED IN
FORMING THEIR OPINIONS**

Date: September 29, 2009

Time: 3:00 p.m.

Courtroom F, 1st Floor

Honorable Nita L. Stormes

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NOTICE OF MOTION

PLEASE TAKE NOTICE THAT on September 29, 2009, at 3:00 p.m. or as early as possible thereafter, Plaintiffs The Laryngeal Mask Company, Ltd. and LMA North America, Inc. (collectively "LMA") will appear in the above referenced Court, located at 940 Front Street, Courtroom F, San Diego, CA 92101, and will, and hereby does, move the Court against Defendants Ambu A/S, Ambu Inc., and Ambu Ltd. (collectively "Defendants" or "Ambu") for an order to exclude the expert testimony of Defendants' designated expert witnesses Dr. Nikolaus Gravenstein, Dr. Samsun Lampotang, Dr. Michael Mazis, Dr. Ryan Sullivan, and Mr. J. Michael Thesz for the spoliation of information considered in forming their opinions.

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MOTION

LMA hereby moves the Court for an order to exclude from the trial in this matter the expert testimony of Defendants' designated expert witnesses Dr. Nikolaus Gravenstein, Dr. Samsun Lampotang, Dr. Michael Mazis, Dr. Ryan Sullivan, and Mr. J. Michael Thesz for the spoliation of information considered in forming their opinions. This motion is based upon this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, and the Declaration of Joshua J. Stowell, with supporting exhibits, filed concurrently herewith, as well as such other oral and/or documentary evidence as may be presented at or before the time of the hearing.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: September 1, 2009

By /s/Frederick S. Berretta

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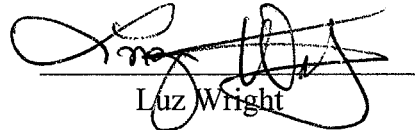
1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on September 1, 2009, I caused the foregoing **PLAINTIFFS' NOTICE**
3 **OF MOTION AND MOTION TO EXCLUDE THE EXPERT TESTIMONY OF**
4 **NIKOLAUS GRAVENSTEIN, SAMSUN LAMPOTANG, MICHAEL MAZIS, RYAN**
5 **SULLIVAN, AND J. MICHAEL THESZ FOR THE SPOILIATION OF**
6 **INFORMATION CONSIDERED IN FORMING THEIR OPINIONS** to be electronically
7 filed with the Clerk of the Court using the CM/ECF system which will send electronic
8 notification of such filing to the applicable registered filing users.

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16 I declare that I am employed in the office of a member of the bar of this Court at
17 whose direction the service was made.

18 Dated: September 1, 2009

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Luz Wright

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